

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

KENNY FAULK,)
) Civil Action No.
Plaintiff,) 1:21-CV-1850-MLB-JLK
)
v.)
)
DIMERCO EXPRESS (USA))
CORP.,)
)
Defendant.)
)

DEFENDANT'S REPLY TO PLAINTIFF'S NOTICES OF AUTHORITY

Defendant Dimerco Express (USA) Corp. (“Defendant”) responds to Plaintiff’s Notices of Authority [R. Docs. 128 and 129] filed on September 25, 2023, as follows:

I. With respect to Doc. 128, Section A, Defendant agrees to the points of authority cited by Plaintiff and that the law cited informs the treatment and presentation of back-pay and its mitigation at trial.

2. With respect to Doc. 128, Section B, Defendant states that the points of authority and arguments to exclude Plaintiff’s pending criminal charges with respect to mental anguish and emotional damages are repetitive of Plaintiff’s briefing on its single Motion in Limine and argument of his counsel at the pretrial conference on September 20, 2023.

3. With respect to Doc. 129, Plaintiff's effort to exclude the letter from Plaintiff's former counsel under F.R.E. 408 is ineffective. First, the letter from Ms. Alvarez to Livingston seeking severance is a legal demand not subject to exclusion under Rule 408. Second, the letter memorializes statements of Plaintiff and are qualified as such. This attempt to obtain monetary gain by misrepresentation, through an attorney no less, speaks to Plaintiff's credibility as a witness in his own behalf at trial. Rule 408 provides Plaintiff no relief as a vehicle for exclusion of Ms. Alvarez's letter, its content and its purpose.

DATED this 25th day of September, 2023.

**GORDON REES SCULLY
MANSUKHANI, LLP**

/s/ Steven M. Stastny*

Chad A. Shultz
Georgia Bar No. 644440
55 Ivan Allen Jr. Blvd., NW, Suite 750
Atlanta, Georgia 30308
(404) 978-7325
cshultz@grsm.com

Steven M. Stastny
*Admitted Pro Hac Vice**
201 St. Charles Avenue
New Orleans, LA 70117
(504) 799-0280
sstastny@grsm.com

OLSEN & BRUEGGEMANN, PC
David G. Jones
*Admitted Pro Hac Vice**
1600 Rosecrans Avenue

Media Center, 4th Floor
Manhattan Beach, CA 90266
(310) 321-7807
dgj@oblawapc.com

*Attorneys for Defendant Dimerco Express
(USA) Corp.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of September, 2023, I electronically filed the foregoing *DEFENDANT'S REPLY TO PLAINTIFF'S NOTICES OF AUTHORITY* with the Clerk of Court using the CM/ECF system which will send notification of such filing to parties of record via electronic mail.

/s/ Steven M. Stastny
OF COUNSEL